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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/745,006	12/20/2000	Barbara O. Sauer	KCC-14,083	7226

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EXAMINER

REICHLER, KARIN M

ART UNIT	PAPER NUMBER
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3761

DATE MAILED: 06/13/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Applicati n No.

09/745,006

Applicant(s)

SAUER, BARBARA O.

Examiner

Karin M. Reichle

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Applicant's 2-7-03 response.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-7 and 9-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-7 and 9-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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1. Claims 2-7, 9-14 and 16-18 are objected to because of the following informalities: in claim 3, the third to last line and the fourth to last line appear to be redundant, i.e. in the last section "are ...pocket" should be deleted. In claims 2 and 4-7, line 1, "An" should be --The--. In regard to claim 9, see discussion of claim 3. In claims 10-14, and 16-17, line 1, "A" should be --The--. In claim 18, last line, after "pocket", --, respectively,-- should be inserted. Appropriate correction is required.

2. Claims 9-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 9, a positive structural antecedent basis for "the discrete pleats" on the third to last line should be set forth, i.e. "discrete" should be deleted.

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. (e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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5. Claims 2-7, 9-14 and 18 are rejected under 35 U.S.C. 102(e) as being anticipated by Reynolds et al.

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

In regard to claims 3, 6, 9, 13, and 18: See Figures 1-4, the elongated material is 20, the backsheet is 44, the topsheet is 46, the absorbent layer is 44, the flap sheet or pocket sheet is 72, the pleats are 88, 92 and 90, 94, the pocket is 106.

In regard to claims 2 and 10: "a entire width" has not been defined as the lateral edge to lateral edge width, the width of the pocket 106 does traverse a width of the back region across the width's entirety.

In regard to claims 4-5, 7, 11-12 and 14: see paragraphs 38 and 43.

6. Claims 2-3, 6-7, 9-10, 13-14 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Schaar '150.

In regard to claims 2-3, 6, 9-10, 13, and 18: See Figures 5-8, the elongated material is 28, 32, 36, the backsheet is 28, the topsheet is 32, the absorbent layer is 36, the flap sheet or pocket

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sheet is 48, the pleats are A, B and D, E, the pocket is defined by A, B, C, D, E, see col. 1, lines 57-60, col. 4, lines 60-64, col. 5, lines 36-58.

In regard to claims 7 and 14: see Figure 2, 48 and col. 3, lines 43-44.

7. Claims 15-17 are rejected under 35 U.S.C. 103(a) as being obvious over Reynolds in view of Fries '796, Fries et al '738 and Igaue et al.

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 103(a) might be overcome by: (1) a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not an invention "by another"; (2) a showing of a date of invention for the claimed subject matter of the application which corresponds to subject matter disclosed but not claimed in the reference, prior to the effective U.S. filing date of the reference under 37 CFR 1.131; or (3) an oath or declaration under 37 CFR 1.130 stating that the application and reference are currently owned by the same party and that the inventor named in the application is the prior inventor under 35 U.S.C. 104, together with a terminal disclaimer in accordance with 37 CFR 1.321(c). For applications filed on or after November 29, 1999, this rejection might also be overcome by showing that the subject matter of the reference and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person. See MPEP § 706.02(l)(1) and § 706.02(l)(2).

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Applicant claims forming a multilayer material of rectangular configuration, removing portions, i.e. producing a final hourglass configuration, and forming pleats in the flap sheet proximate the back region. Note paragraph 38 of Reynolds. The Reynolds publication does not teach the rectangular configuration or removing portions, i.e. forming an hourglass configuration, steps. However, see Fries at Figures, col. 1, lines 5-11, col. 10, lines 27-39, Fries et al the hourglass configuration in the Figures and column 3, line 60-col. 4, lines 12 and Figures 7-8 of Igaue et al. To employ a rectangular material which has a portion removed to create a final hourglass shape as taught by Fries, Fries et al and Igaue et al on the Reynolds device would have been obvious to one of ordinary skill in the art in view of the recognition that such would provide more efficient manufacture, i.e. easier to align rolls of material and shape than align already shaped material, and the desirability of efficiency in manufacture of any article. In so doing, upon definition and identification of the portion of the material which is the rear portion, i.e. removing portions, attachment of tabs steps etc, the pleats in the flap sheet are necessarily "formed" in the region they are proximately attached to, i.e. the rear portion, whether the flap sheet is pleated prior to or after the removing step. The claims do not require pleating an unpleated flap sheet after removing the portions step.

8. Claims 4-5 and 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schaar '150 in view of Foreman '677.

See 48, 30, 32 and 36 in Figure 2 of Schaar. Also see col. 3, lines 43-50 of Schaar.

Applicant claims at least one of the flap sheet, backsheet and liner or flap sheet of nonwoven

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material which Schaar does not specifically set forth. However see Foreman col. 7, lines 1-22.

To employ a nonwoven as taught by Foreman on the Schaar device as the liner, and thereby also the flap, would be obvious to one of ordinary skill in the art in view of the recognition that such are known as suitable liquid pervious materials for topsheets and the desire of Schaar to employ a topsheet of liquid pervious material.

9. Applicant's arguments have been carefully considered but are deemed moot in that the rejections relying on Foreman have not be reraised.

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The other references teach other pockets.

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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The amendments to claims 3, 9, 15 and 18 necessitated any new grounds of rejection.

12. Any inquiry concerning this communication should be directed to K. Reichle at telephone number (703) 308-2617. The Examiner's regular work schedule is Monday-Thursday. The Official RightFAX number is 703-872-9302.

K. Reichle
June 5, 2003

K. Reichle
KARIN REICHEL
PAIENT EXAMINER